IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL ST.NO. 20507 OF 2001

The State of Maharashtra. ... Appellant.
Versus.
Shyama Tukaram Patil
(since deceased through heirs)
Yeshwant Shyama Patil & ors. ... Respondents.

Shri A.R.Patil for the Appellant.
Shri Kiran J.Kandpile for the Respondents.

CORAM : ABHAY S.OKA, J.
DATED : 4th August, 2006.

P.C.:

1. Admit. The Respondents waive service. Taken up for hearing forthwith. Heard the learned Advocates appearing for the parties.

2. The challenge by the Appellate-State of Maharashtra in this Appeal is to the Judgment and Award dated 10th November 2000 passed by the learned Joint Civil Judge, Senior Division, Raigad at Alibag in a Reference under section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act").

3. The land acquired is situated at village Valvali, Taluka Panvel, District Raigad admeasures 43.7 Ares. A notification under section 4 of the said Act was issued on 3rd February 1970. The Award was made by the Special Land Acquisition Officer on 16th September 1986 by which the market value at the rate of Rs.2.37

per sq.meter and Rs.3.94 per sq.meter was fixed. At the instance of the Respondent, a reference was made under section 18 of the said Act to the Civil Court. The claim of the Respondent was for market value at the rate of Rs.15 per sq.meter. The Reference Court fixed the market value at the rate of Rs.12/- per sq.meter.

4. The learned A.G.P. for the Appellant submitted that the market value awarded by the Reference Court is on the higher side. He submitted that no deduction has been made on account of the development charges. The learned Advocate appearing for the Respondents supported the impugned Judgment and Award.

5. I have considered the submissions. The acquired land was notified under section 4 of the said Act on 3rd February 1970 for the purpose of development of city of Navi Mumbai. It is not in dispute that vast tracks of lands in Taluka Thane, District Thane, and Taluka Panvel, District Raigad were notified for acquisition for the said project on the same day. Large number of lands from the village Valvali were also notified for acquisition.

6. My attention has been invited to the Judgment of the Single Judge of this Court dated 22nd April 2004 in First Appeal No.25 of 1993 (State of Maharashtra v/s.

Ramdas Dhaya Patil). By the said decision the learned Single Judge of this Court decided an Appeal preferred by the State of Maharashtra in case of a land situated at village Valvali, Taluka Panvel which was acquired for the same public purpose and under notification under section 4 of the even date. The said Appeal related to the land bearing Survey No.10 Hissa No.1 admeasuring 6454 sq.meters. After considering the location of the acquired land which was the subject matter of the said case, the learned single Judge came to the conclusion that the market value of the land will be Rs.15 per sq.meter. After deducting necessary amount on account of development charges, the learned single Judge fixed the market value at the rate of Rs.14/- per sq.meter.

7. In my view the decision of the learned Single Judge of this Court is certainly relevant for deciding this Appeal. The learned trial Judge in the present case has noted that the acquired land was in close proximity to various roads including the Bombay-Pune National Highway No.4, Sion-Panvel Highway etc. The market value which is fixed by the trial Court is only Rs.12 per sq.feet. The acquired land in this case as well as the acquired land which was the subject matter of the First Appeal No.25 of 1993 which was decided by the learned Single Judge were both agricultural lands on the date of notification under section 4 of the said

Act. After making necessary deduction for development charges, this Court has fixed the market value at the rate of Rs.14 per sq.meter in case of a similarly situated land. In the present case, the learned trial Judge has awarded the market value at Rs.12 per sq.meter. In this view of the matter, there is no merit in the Appeal preferred by the Appellante-State and the same deserves to be dismissed. According the Appeal is dismissed with no order as to costs.

Judge.